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Vice Chairman

J. KEMP BARTLETT
DIRECTOR

STATE OF MARYLAND
GOVERNOR'S COMMISSION TO REVISE
THE ANNOTATED CODE
ANNOTATED CODE COMMISSION
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January 7, 1974

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JAMES L. WRAY

COMMISSION REPORT NO. 6

TO

THE GENERAL ASSEMBLY OF MARYLAND

ESTATES AND TRUSTS ARTICLE
SB 133 (PRE-FILED)

* * * * *

I. CONTINUATION OF CODE REVISION.

In its reports to the General Assembly proceeding the First Extraordinary Session of 1973 which convened on July 30, 1973, the Commission reported to the General Assembly in detail concerning the background of code revision and the program that the Commission had proposed to undertake in connection with the complete bulk revision of the entire Code. The purposes of the Commission's endeavor are also stated in the Revisor's Manual of the Governor's





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January 8, 1974

ALL COMMISSION MEMBERS

I am enclosing Commission Report No. 6 to the General Assembly of Maryland in connection with the Estates and Trusts Article. I am also enclosing an outline of this Article.

As reported to you previously, the joint Committee will commence its study of this Article at 11:00 a.m. on Thursday, January 10, 1974.

Sincerely yours,

J. Kemp Bartlett
J. Kemp Bartlett
Director

JKB:ej

Enc.

Commission to Revise the Annotated Code of Maryland (Second Edition-1973). Copies of the Manual are presently in the offices of the Secretary of the Senate and the Chief Clerk of the House who will furnish one to any member upon request.

Since the Commission's last report to the General Assembly the Agriculture, Courts and Judicial Proceedings and Natural Resources Articles have been enacted and became effective on January 1, 1974.

The presentation and consideration of the Estates and Trusts Article is a continuation of the revising process. The Commission undertook the revision of this Article as a result of a directive of its Subcommittee on Long Range Planning, a memorandum of this action is contained in Staff Memorandum No. 13, April 27, 1973.

II. PREPARATION OF ARTICLE.

As a result of the decision of the Subcommittee on Long Range Planning, it appointed a committee of the Commission to consider this Article. Those appointed were Commissioners Jerrold V. Powers, Roger D. Redden, Doris P. Scott, Shale D. Stiller and Melvin J. Sykes. Commissioner Stiller was designated as Chairman. In addition, Chairman James appointed Senators Clarence W. Blount, J. Joseph Curran, Jr., James S. McAuliffe and Norman R. Stone, Jr. as legislative consultants and Vice chairman Lowe appointed Delegates Jon H. Livezey, Joseph E. Owens and

John W. Wolfgang to serve in a parallel capacity.

The staff undertook its assignment in July, 1973, and its first draft was submitted to the committee on August 8, 1973. The Subcommittee met and considered the draft in the office of the Chairman on September 18, October 15 and October 31, 1973. The Commission approved the committee's report on Titles 1-12 at its meeting in Annapolis on October 18, 1973 and approval of Titles 13-15 was done at the Commission meeting held on December 3, 1973. The Chairman then ordered the bill printed and pre-filed. It appears in the 1974 session of the General Assembly as SB 133, introduced by the President and assigned to the Judicial Proceedings Committee. The Chairmen of the Judicial Proceedings and Judiciary Committee have agreed to conduct joint hearings to consider the Bill at the earliest possible time. The purpose for early consideration is to provide legislative enactment of the revised Article which may be used as a base upon which substantive changes can be made by the 1974 Session. Senate Bill 133 proposes a revision in organization along guidelines set out in the Manual and has avoided substantive changes except in circumstances consistent with the established revision principles. Once the revised Article is enacted, substantive changes may be made by subsequent introduction of legislation or by amendment of pre-filed bills. This is a

departure from the procedure followed in the First Extraordinary Session, 1973, when substantive changes were not offered. In this manner all enactments concerning Estates and Trusts, whether revision or substantive, will have a common reference point, and all will become effective on July 1, 1974.

III. ESTATES AND TRUSTS ARTICLE.

One of the fundamental principles of code revision is organization of the material allotted to the revised article. Chairman Stiller submitted for this Article an outline of the material to be considered based upon Allocation Tables previously adopted by the Commission. Appended to this report is an outline of the completed Article by Title, Subtitle and Section with page references to the Printed Bill. This Appendix will enable a quick reference to the Bill.

TITLES 1 THROUGH 12

ESTATES OF DECEDENTS

The material contained in these titles is the material presently in Article 93 of the Annotated Code (1969 Replacement Volume, 1973 Supplement). This Article was drafted by the Governor's Commission to Review and Revise the Testamentary Law of Maryland (Henderson Commission). It was enacted by Chapter 3 of the Laws of 1969. The Henderson Commission performed an outstanding service in organizing material dealing with this

subject and assembling in a logical sequence valuable comments to most sections appearing in the notes to the sections, and it is the intention of the Commission that these notes will be incorporated by the publisher of the revised Article. The system of the numbering sections in Article 93 is consistent with the system adopted by the Code Commission and section numbers remain the same in the revised Article to assure that there will be no confusion for users of the revised Article. The Commission has exercised extreme care to revise only language and style throughout its entire consideration of this Article and in almost every case headings of titles, subtitles and sections have remained the same in order to preserve the work of the Henderson Commission. Some of the longer sections have been subdivided in order to shorten and clarify existing provisions but the purpose and intent of the existing law has not been changed in substance. All amendments made subsequent to 1969 have been incorporated. In Title 4 the Anatomical Gift Act has been added as Subtitle 5. The Commission felt that this transfer from Article 43 was appropriate, and it was done with the consent of the Department of Health and Mental Hygiene. A subsection inserting the provisions of the Statute of Frauds was transferred from Article 21 to §8-109 because of the desirability of assembling this material which relates to

personal representatives in its appropriate order. Fees chargeable by the Register of Wills have been removed from Article 36 and are contained in §2-206. Applicable dates contained in Title 12 have been scrutinized and are up to date. Throughout this Article in these titles as well as in Titles 13, 14 and 15, Uniform Laws are not revised and remain in this Article in order to perpetuate their uniform characteristics. In presenting this material to the committees and the General Assembly, it is suggested that consideration by title will be an appropriate unit for presentation because of the character of the revision, and because the work of the Henderson Commission was so thorough that an analysis on this basis is adequate. In this instance the Commission felt that it was advisable to retain the method of the use of the definitions in the same manner and by the same cross references that has been employed by the Henderson Commission, thus eliminating the need for renumbering sections.

TITLE 13

PROTECTION OF MINORS AND DISABLED PERSONS

Title 13 contains the material presently in Article 93A of the Annotated Code. This material was drafted by the Section on Estates and Trusts of the Maryland State Bar Association. It was enacted by Chapter 4 of the Laws of 1969. This material deals

with the protection of minors and disabled persons and the same procedures of revision have been followed in this title as in the first 12 titles. Section numbers remain the same except that they are each preceded by the number "13" which indicates the title number. Subtitle 3 is the Maryland Uniform Gift to Minors Act which remains as it was amended in 1973. Subtitle 8 contains the material relating to guardianship of veterans which is unchanged.

TITLE 14

TRUSTS

Title 14 which deals with trusts has not appeared before in the Code as a named title. It contains the appropriate material from Article 16 and the Maryland Revised Uniform Principle and Income Act from Article 75B and the Uniform Charitable Trust Administration Act from Article 16.

TITLE 15

FIDUCIARIES

Title 15 contains general provisions relating to this subject found in Article 37A, Article 16 and Article 90. It also contains in separate subtitles the Maryland Uniform Fiduciary Act, the Maryland Uniform Act for the Simplification of Fiduciary Security Transfers, and the Maryland Uniform Management of Institutional Funds Act.

IV. POSSIBLE SUBSTANTIVE CHANGE.

In revising and redrafting all material for any article, the Commission charges itself with the responsibility of notifying the General Assembly of specific areas which may be in need of substantive change. Since the Commission takes the position that it does not have the authority to make conscience substantive changes, it does feel that it is charged with the duty to make known material that it may find in conflict or subject to possible legislative review. In the Estates and Trusts Article the Commission feels that such a situation may exist in the following sections:

§7-502(a). The Commission determined to retain the "20 days" provision.

§13-208. This section has been retained to conform to Maryland Rule V73. It has not been expanded further than the authority contained in Article 93A, §208.

§13-213. This section provides that the provisions of §15-102 relating to fiduciaries be made applicable to a guardian. These powers are modified by Rule V77.

§13-301(a). An adult is defined as a person who has attained the age of 18. The Commission points out that it has made no change in existing law.

§13-406(c). This section has been revised in compliance with present law. It is possible that it could be expanded in the discretion of the General Assembly.

§14-102. This section makes applicable the rules of the Estates of Decedents Law to inter vivos trusts.

§14-103. A nomenclature change is made which is consistent with current practices.

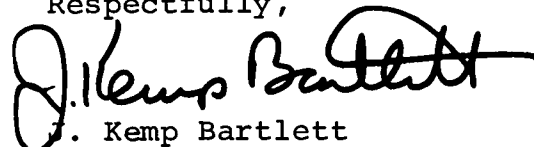
§15-102. This section is derived from Maryland Rule V77. As written it changes the power of a guardian who owns property as a tenant by the entirety with the spouse of a disabled person.

Title 15, Subtitle 3. This is the Maryland Uniform Act for the Simplification of Fiduciary Security Transfers. A question arose as to the need for this section and after consideration by the Commission it was determined that it should remain in the revised article

V. AMENDMENTS.

Twenty-one slight typographical errors have been found in the text of this Article. Amendments have been prepared and will be submitted to the Committee at the time of the hearing.

Respectfully,


J. Kemp Bartlett
Director

